

GENERAL WELFARE CODE

CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION

GENERAL WELFARE CODE

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APPENDIX A. LEGISLATIVE HISTORY

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CHAPTER 1. GENERAL PROVISIONS

SECTION 1.01. PURPOSE

The purpose of this Code is to memorialize the procedures used by the Confederated Tribes of the Umatilla Indian Reservation (CTUIR or Tribe) in establishing programs for the promotion of the general welfare of the Tribe and in developing program guidelines for compliance with the general welfare doctrine and Internal Revenue Code Section 139E.

SECTION 1.02. CONSTITUTIONAL AUTHORITY

This Code is consistent with and implements Article II of the CTUIR Constitution which provides as follows:

The purpose and powers of the Confederated Tribes shall be, within law, to exercise and protect all existing and future tribal rights arising from any source whether treaty, federal statute, state statute, common law, or otherwise; to achieve a maximum degree of self-government in all tribal affairs; and to protect and promote the interests of the Indians of the Umatilla Indian Reservation.

SECTION 1.03. BACKGROUND AND INTENT

The CTUIR, a federally recognized tribal government, exercises its inherent rights of sovereignty to promote the general welfare of the Tribe, its self-determination, culture, and tradition, by providing general welfare assistance, including Indian general welfare benefits within the meaning of Internal Revenue Code Section 139E. Both the United States Congress, through its enactment of the Tribal General Welfare Exclusion Act of 2014, and the Internal Revenue Service, through its traditional application of the general welfare doctrine, has long recognized the sovereign right of Indian tribal governments to provide financial assistance to individuals under certain circumstances on a non-taxable basis. This Code is intended to affirm the Tribe's inherent sovereign rights to promote the general welfare of the Tribe and provide qualifying Assistance and Program Benefits on a tax free basis.

SECTION 1.04. RATIFICATION OF PRIOR ACTS

Assistance provided prior to the enactment of this Code, or any amendments hereto, is hereby ratified and confirmed as general welfare assistance pursuant to the authority of the Tribal Constitution and laws, and the inherent powers of the CTUIR to promote the general welfare. This Code is not intended to invalidate or supplant traditional exercises of sovereignty and culture. All assistance authorized by the Board of Trustees to promote the general welfare of this Tribe is, and has been, intended to reflect the inherent rights and sovereign acts of the Tribe within the principles reflected under the general welfare doctrine.

SECTION 1.05. SCOPE OF NON-TAXABLE BENEFITS

The general welfare benefits authorized by this Code are intended to qualify for favorable tax treatment under the general welfare doctrine to the fullest extent permitted at law. Without limitation, the following Benefits shall be treated as non-taxable hereunder: (1) Benefits that satisfy the requirements for exemption under Internal Revenue Code Section 139E, (2) Benefits that are provided under an IRS Safe Harbor Program, (3) Benefits that qualify for exclusion under the IRS General Test, or (4) Benefits that meet another express exemption under the Internal Revenue Code, such as the exemption provided for tribal medical expenses under Internal Revenue Code Section 139D, or that meet other recognized exemptions including, for, example, resource or land-based exemptions under 25 U.S.C. Sections 117a-b, 1407 and 1408.

SECTION 1.06. LEGISLATIVE HISTORY; RULES OF CONSTRUCTION

This Code reflects guidance under the IRS General Welfare Exclusion safe harbor rules appearing in IRS Revenue Procedure 2014-35, and the enactment of the Tribal General Welfare Exclusion Act of 2014, now codified as Internal Revenue Code Section 139E. The following legislative history shall be taken into account in construing the terms and application of this Code.

A. IRS Revenue Procedure 2014-35.

In 2011, the United States Treasury Department and IRS commenced national efforts to consider tribal requests to improve guidance on tribal general welfare matters. Notice 2011-94 invited comments from tribal governments concerning the application of the general welfare exclusion to Indian tribal government programs. The Tribe participated in that process through joint comments with the National Congress of American Indians, the United South and Eastern Tribes, Inc., the California Association of Tribal Governments and the Affiliated Tribes of the Northwest Indians, all seeking clarity with regard to the sovereign right of tribes to provide tax free assistance based on non-financial need criteria including the preservation of culture and tradition. The Tribe also participated in individual consultation efforts wherein IRS and Treasury acknowledged the need to address and accommodate unique tribal issues such as preservation of culture and tradition.

On December 5, 2012, the IRS and Treasury Department issued Notice 2012-75 proposing new guidance and providing interim relief under the general welfare exclusion for Programs that meet designated safe harbor rules. The Tribe asserted all protections provided under the proposed rule and made changes to Programs where necessary to secure additional Member protections under the interim relief. On June 3, 2014, the Treasury Department issued final guidance in the form of Revenue Procedure 2014-35 confirming that IRS will not tax Member Assistance that meets designated IRS safe harbor requirements.

B. Tribal General Welfare Act of 2014.

In September of 2014, Tribal representatives worked with the United States Congress to clarify that Bills then pending in the House (HR 3043) and in the Senate (SB 1507) were in fact intended to expand tribal general welfare exclusion rights and build upon the safe harbor and general test relief previously recognized by the IRS. On September 17, 2014, Senators Moran and Heitkamp, co-sponsors of SB 1507 engaged in a colloquy with the Chairman of the Senate Finance Committee, Senator Wyden, on the Congressional Record of the Senate confirming their understanding and intent that:

1. IRS would apply SB 1507 “no less favorable than the safe harbor approach provided for in Revenue Procedure 2014-35, and that in no event will IRS require an individualized determination of financial need where a tribal Program meets all other requirements of new section 139E as added by the bill.”
2. The bill requires that “any ambiguities in new [Internal Revenue] Code section 139E be shall resolved by the IRS in favor of Indian Tribal governments and deference shall be given to Indian Tribal governments for programs administered and authorized by the Tribe to benefit the general welfare of the Tribal community.”
3. It “would be contrary to the intent of Congress” if IRS were to “take the occasion of passage of H.R. 3043 or S. 1507 to retrench, narrow or possibly withdraw the administrative guidance provided in Rev. Proc. 2014-35 after enactment of the bill.”
4. The Congressional intent “is to expand rather than restrict the safe harbor provisions in Rev. Proc. 2014-35.”
5. “The purpose of this legislation is to further empower Tribal self-determination.”

6. “Tribal governments have a long history of providing critical benefits to tribal members, and these programs are fundamental to the sovereignty and cultural integrity of tribes. Tribes, and not the IRS, are in the best position to determine the needs of their members and provide for the general welfare of their tribal citizens and communities.”

On September 18, 2014, the Tribal General Welfare Exclusion Act of 2014 passed both houses of Congress, and the Tribal General Welfare Exclusion Act of 2014 was signed into law by the President on September 29, 2014. The CTUIR now expressly embraces the forgoing principals as an integral part of this Code and as guiding principles in construing the Tribe’s compliance with Internal Revenue Code Section 139E, the Safe Harbor Rules, and the General Test.

SECTION 1.07. BUDGET AVAILABILITY

All amounts budgeted by the Tribe for general welfare assistance payments shall remain general assets of the Tribe until such payments are disbursed; the general welfare assistance payment arrangement authorized by this Code shall be an unfunded arrangement, and shall be limited to appropriated funds and all limitations imposed by the Tribe’s fiscal budgeting process. General welfare payments hereunder are paid from assets of the CTUIR; all payments are based on budget availability of the CTUIR, and the Tribe does not guarantee any payments hereunder.

SECTION 1.08. NON-RESOURCE DESIGNATION

Beneficiaries have no contractual or other right to direct, compel, or alienate payments prior to actual receipt. Benefits paid hereunder are for the benefit of the Tribe as a whole and not an individual benefit or right of any specific Beneficiary. Benefits paid hereunder shall not be treated as a resource or asset of the Beneficiary for any purpose, and shall not be counted against a recipient’s eligibility (through income or resource criteria) for other governmental assistance of any kind. The Tribe reserves the right to cancel, adjust, modify or revoke any Benefits that are treated as a resource of the Beneficiary.

SECTION 1.09. FEDERAL TRUST RESPONSIBILITY

The federal government, through its government-to-government relationship with the Tribe, through its trust relationship with the Tribe, and through treaty, statutes and executive orders, owes certain obligations to CTUIR Members, much of which has been curtailed through budget shortfalls, which the Tribe seeks to supplement, through acts of self-determination, in part through this Code. The Tribe reserves the right to provide Assistance including circumstances where federal funding is insufficient to operate federal programs designed to benefit Tribal Members and when federal funding is insufficient to adequately and consistently fulfill federal trust obligations. The Tribe’s adoption of Programs hereunder is not intended to relieve or diminish the federal government of its funding and trust responsibilities. Nothing herein shall waive the Tribe’s right to seek funding shortfalls or to enforce the trust rights of the Tribe and its Members. The Tribe shall be entitled to government-to-government consultation and coordination rights in regard to this Code.

SECTION 1.10. DELEGATION; FURTHER GUIDANCE

The Board of Trustees may seek a private letter ruling, opinions, relief, or guidance from federal agencies, including without limitation the Social Security Administration and the Internal Revenue Service, regarding the tax, asset or resource treatment of any Benefits set aside or paid under any Program(s) hereunder. The Board of Trustees may revoke or modify any Programs if necessary and appropriate in order to obtain a favorable ruling, within ninety days after any unfavorable ruling is issued with respect to such Program(s), or within ninety days after a ruling request with respect to such Program(s) is withdrawn by the Board of Trustees.

SECTION 1.11. DEFINITIONS

- A. “Assistance” - Any Program Benefits or payments that qualify for tax free treatment under the General Welfare Exclusion.

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- B. “Beneficiary” - Any person or persons entitled to receive Assistance or a Benefit in accordance with specific Program guidelines. Programs designed to qualify for exemption under Internal Revenue Code section 139E may benefit Members, spouses of a Member, and/or Dependents of a Member. Programs designed to meet the Safe Harbor may benefit any Member or Qualified Nonmember.
- C. “Benefit” – Any payment made or service provided to or on behalf of a Beneficiary which qualified for non-taxable treatment under the General Welfare Exclusion.
- D. “Board of Trustees” - The duly elected governing Board of Trustees of the CTUIR, a federally recognized Indian tribal government.
- E. “Cash Honorarium” - A payment for performing or conducting Tribal traditional, cultural or religious services for the benefit of the CTUIR, Tribal Member(s) or the Reservation community.
- F. “Code” - The CTUIR General Welfare Code.
- G. “Compensation” for services should reflect that qualifying Programs are not disguised employment. However, this shall not prevent the Tribe from structuring Programs with community service ties so long as such ties are consistent with the General Welfare Exclusion. For example, Programs similar to the Workforce Investment Act may include tax free Assistance.
- H. “CTUIR or Tribe” – the Confederated Tribes of the Umatilla of the Indian Reservation, a federally recognized Indian Tribe.
- I. “Cultural Activity” - A ceremony, celebration or expression of Tribal traditions, culture or religion including, but not limited to, first foods dinners, naming ceremonies, pow-wows, repatriation of ancestral remains and Treaty Day commemoration.
- J. “Dependent” - The term “Dependent”, for purposes of Internal Revenue Code Section 139E, has the meaning given such term by Internal Revenue Code Section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B).
- K. “Disability” or “Disabled” - The term disability or disabled as used for purposes of Programs covered by this Code shall refer to the inability of an individual to care for himself/ herself due to physical or mental limitations in accordance with tribal law.
- L. “General Welfare Exclusion” – Assistance shall be treated as non-taxable so long as it satisfies the requirements for exclusion under Internal Revenue Code Section 139E, it is provided under a Safe Harbor Program, or it meets the General Test.
- M. “General Test” – Assistance will be treated as meeting the General Test under the General Welfare Exclusion if the Benefits are: (1) paid by or on behalf of an Indian tribe (2) under a social benefit program, (3) based on either needs of the Indian community itself or upon individual needs of the recipient (which need not be financial in nature), and (4) are not Compensation for services or per capita payments.
- N. “Internal Revenue Code” - The Internal Revenue Code of 1986, as amended.
- O. “Item of Cultural Significance” - Any item, craft, tool or food that relates to the traditions, culture or religion of the CTUIR including, but not limited to, blankets, beadwork, artwork, jewelry, native clothing and regalia and first foods.
- P. “Lavish” or “Extravagant” shall be determined by the Board of Trustees in its sole discretion based on all facts and circumstances, taking into account needs unique to the Tribe as well as the social purpose being served by the particular Assistance at hand.

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- Q. “Member” or Tribal Member” - “Member” or “Tribal Member” means any person, regardless of age, who is an enrolled member of the CTUIR at the time of an Assistance determination, and such other individuals who may be treated as members for Assistance as determined by the Board of Trustees in accordance with the laws, customs and traditions of the Tribe.
- R. “Pay” or “paid” or “payment” means pay or reimburse in whole or in part.
- S. “Program” means any program established by or under authority of the Board of Trustees, including any program authorized through the annual budget process, to provide Assistance hereunder. A program shall not fail to be treated as an Indian tribal government Program solely by reason of the Program being established by tribal custom or government practice.
- T. “Promotion of the general welfare” or “Social benefit” should reflect a goal or goals established by and in the sole discretion of the Board of Trustees for the promotion of the general welfare of the Tribe, for example, in furtherance of tribal self-determination, culture and tradition.
- U. “Qualified nonmember” means a spouse, former spouse, legally recognized domestic partner or former domestic partner, ancestor, descendant, or Dependent of a Member of the Tribe. Individual Tribal Programs may, but are not required to, cover Qualified nonmembers.
- V. “Reservation” means the Umatilla Indian Reservation or, if the context so permits, any other Indian reservation as defined in Internal Revenue Code Section 162(j).
- W. “Safe Harbor Program” shall refer to a Program that meets the requirements of Section 2.02 and IRS Revenue Procedure 2014-35, as the same may hereafter be amended. Need shall be presumed for Assistance provided under a Safe Harbor Program.
- X. “Service area” has the same meaning as in 25 C.F.R. Section 20.100.
- Y. “Service unit area” means an area designated for purposes of administration of Indian Health Service programs under 42 C.F.R. Section 136.21(l).
- Z. “Self-determination” should be construed broadly to reflect traditional health, education and welfare programs as well as unique cultural and traditional based programs and economic development. See, e.g., IRS Private Letter Ruling 199924026 (tax free business grants in part to promote on reservation employment).
- AA. “Spouse” shall be determined in accordance with Tribal laws, customs and traditions.

CHAPTER 2. PROGRAM REQUIREMENTS TO SATISFY GENERAL WELFARE EXCLUSION

SECTION 2.01. INDIAN GENERAL WELFARE BENEFITS (INTERNAL REVENUE CODE SECTION 139E)

Programs that meet the following criteria for exemption under Internal Revenue Code Section 139E shall be treated as non-taxable Assistance under the General Welfare Exclusion without the applicant having to demonstrate individual need:

- A. General Criteria for Qualification under Internal Revenue Code Section 139E: Each payment made or service provided to or on behalf of a Member (or any Spouse or Dependent of the Member) pursuant to a Program under this Code shall be treated as non-taxable Assistance under the General Welfare Exclusion so long as the following criteria are met:
1. The Program is administered under specified guidelines and does not discriminate in favor of the members of the governing body of the Tribe;

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2. Program Benefits are available to any Tribal Member who meets such guidelines;
 3. Program Benefits are for the “promotion of the general welfare”;
 4. Program Benefits are not Lavish or Extravagant; and
 5. Program Benefits are not Compensation for services.
- B. Ceremonial Activities: Any items of cultural significance, reimbursement of costs, or cash honorarium for participation in cultural or ceremonial activities for the transmission of tribal culture shall not be treated as Compensation for services.
- C. Special Effective Dates: Internal Revenue Code Section 139E is effective for Assistance in taxable years for which the period of limitations on a refund or credit under Internal Revenue Code Section 6511 has not expired. If the period of limitation on a refund or credit resulting from the application of Internal Revenue Code Section 139E (a) would otherwise expire before the one-year period beginning on the date of the enactment of Internal Revenue Code Section 139E, a refund or credit (to the extent attributed thereto) may be made or allowed if a claim is filed before the close of such one-year period.

SECTION 2.02. IRS SAFE HARBOR PROGRAMS

Programs that meet the following general criteria for safe harbor treatment, and provide qualifying safe harbor Benefits shall be treated as non-taxable Assistance under the General Welfare Exclusion without the applicant having to demonstrate individual need:

- A. General Criteria for Safe Harbor Treatment: Each Safe Harbor Program shall satisfy the following general criteria:
1. The Benefit is provided under a specific Program of the Tribe;
 2. The Program has written guidelines specifying how individuals may qualify for the benefit;
 3. The Benefit is available to any Tribal Member, Qualified nonmember, or identified group of Tribal Members or Qualified nonmembers who satisfy the Program guidelines, subject to budgetary restraints;
 4. The distribution of Benefits from the Program does not discriminate in favor of the governing body of the Tribe;
 5. The Benefit is not Compensation for services; and
 6. The Benefit is not Lavish or Extravagant under the facts and circumstances.
- B. Qualifying Safe Harbor Benefits: The following Benefits may be provided under a Safe Harbor Program. The Benefits listed in the parenthetical language herein are illustrative only rather than an exhaustive list. Thus a Benefit may qualify for exclusion from gross income as a Safe Harbor Program even though the Benefit is not expressly described in the parenthetical language herein, provided that it meets all other requirements of this Section and Revenue Procedure 2014-35 (as may be amended):
1. Housing programs. Programs relating to principal residences and ancillary structures that are not used in any trade or business, or for investment purposes that:
 - a. Pay mortgage payments, down payments, or rent payments (including but not limited to security deposits) for principal residences;

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- b. Enhance habitability of housing, such as by remedying water, sewage, sanitation service, safety (including but not limited to mold remediation), or heating or cooling issues;
 - c. Provide basic housing repairs or rehabilitation (including but not limited to roof repair and replacement); and
 - d. Pay utility bills and charges (including but not limited to water, electricity, gas, and basic communications services such as phone, internet, and cable).
- 2. Educational programs. Programs to:
 - a. Provide students (including but not limited to post-secondary students) transportation to and from school, tutors, and supplies (including but not limited to clothing, backpacks, laptop computers, musical instruments, and sports equipment) for use in school activities and extracurricular activities;
 - b. Provide tuition payments for students (including but not limited to allowances for room and board on or off campus for the student, spouse, domestic partner, and Dependents) to attend preschool, school, college or university, online school, educational seminars, vocational education, technical education, adult education, continuing education, or alternative education;
 - c. Provide for the care of children away from their homes to help their parents or other relatives responsible for their care to be gainfully employed or to pursue education; and
 - d. Provide job counseling and programs for which the primary objective is job placement or training, including but not limited to allowances for-- Expenses for interviewing or training away from home (including but not limited to travel, auto expenses, lodging, and food); Tutoring; and appropriate clothing for a job interview or training (including but not limited to an interview suit or a uniform required during a period of training).
- 3. Elder and disabled programs. Programs for individuals who have attained age 55 or are mentally or physically disabled (as defined under applicable law, including but not limited to tribal government disability codes or laws) that provide:
 - a. Meals through home-delivered meals programs or at a community center or similar facility;
 - b. Home care such as assistance with preparing meals or doing chores, or day care outside the home;
 - c. Local transportation assistance;
 - d. Improvements to adapt housing to special needs (including but not limited to grab bars and ramps).
- 4. Cultural and religious programs. Programs to:
 - a. Pay expenses (including but not limited to admission fees, transportation, food, and lodging) to attend or participate in an Indian tribe's cultural, social, religious, or community activities such as pow-wows, ceremonies, and traditional dances;
 - b. Pay expenses (including but not limited to admission fees, transportation, food, and lodging) to visit sites that are culturally or historically significant for the tribe, including but not limited to other Indian reservations;

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- c. Pay the costs of receiving instruction about an Indian tribe's culture, history, and traditions (including but not limited to traditional language, music, and dances);
 - d. Pay funeral and burial expenses and expenses of hosting or attending wakes, funerals, burials, other bereavement events, and subsequent honoring events; and
 - e. Pay transportation costs and admission fees to attend educational, social, or cultural programs offered or supported by the Tribe or another tribe.
- 5. Other qualifying Assistance programs. Programs to:
 - a. Pay transportation costs such as rental cars, substantiated mileage, and fares for bus, taxi, and public transportation between an Indian reservation, service area, or service unit area and facilities that provide essential services to the public (such as medical facilities and grocery stores);
 - b. Pay for the cost of transportation, temporary meals, and lodging of a Tribal Member or Qualified nonmember while the individual is receiving medical care away from home;
 - c. Provide assistance to individuals in exigent circumstances (including but not limited to victims of abuse), including but not limited to the costs of food, clothing, shelter, transportation, auto repair bills, and similar expenses;
 - d. Pay costs for temporary relocation and shelter for individuals displaced from their homes (including but not limited to situations in which a home is destroyed by a fire or natural disaster);
 - e. Provide assistance for transportation emergencies (for example, when stranded away from home) in the form of transportation costs, a hotel room, and meals; and
 - f. Pay the cost of nonprescription drugs (including but not limited to traditional Indian tribal medicines).
- C. Compensation Safe Harbor: For Safe Harbor Programs, and subject to amendments to Revenue Procedure 2014-35 hereafter, the Tribe will presume that individual need is met for religious leaders or spiritual officials or leaders (including but not limited to medicine men, medicine women, and shamans) receiving the following Benefits, and that the Benefits do not represent Compensation for services: Benefits provided under an Indian tribal governmental Program that are items of cultural significance that are not lavish or extravagant under the facts and circumstances or nominal cash honoraria provided to religious or spiritual officials or leaders (including but not limited to medicine men, medicine women, and shamans) to recognize their participation in cultural, religious, and social events (including but not limited to pow-wows, rite of passage ceremonies, funerals, wakes, burials, other bereavement events, and subsequent honoring events).
- D. Safe Harbor Effective Dates: Safe harbor treatment shall be afforded to any Program or Benefit that otherwise satisfies the safe harbor rule as of or after December 6, 2012 or for any earlier taxable period for which the period of limitation on refund or credit under Internal Revenue Code Section 6511 has not expired.
- E. Non-Safe Harbor Programs: Nothing in this Code or the IRS safe harbor guidance shall limit the Tribe's right to provide Assistance outside of the safe harbor rules.
- F. Future Guidance; Changes to Revenue Procedure 2014-35: In the event that Revenue Procedure 2014-35 is hereafter amended, revoked, or superseded, the Tribe may continue to

look to the above factors as guidance in interpreting the common law to the extent not inconsistent with future guidance or controlling law. This Code shall incorporate by reference any future changes to Safe Harbor relief provided in Revenue Procedure 2014-35 to the extent such changes are more flexible or more permissive than the guidance appearing in Revenue Procedure 2014-35.

SECTION 2.03. PROGRAMS MEETING THE GENERAL TEST

Programs that do not qualify for non-taxable treatment under Internal Revenue Code Section 139E or under an IRS Safe Harbor, will nonetheless be treated as non-taxable if Program Benefits meet the General Test for treatment under the General Welfare Exclusion. For purposes of the General Test only, needs must be shown in one of the following manners:

- A. Individual Needs. Certain Programs may be based on individual need, rather than an overall need of the Tribe. For those Programs, the Board of Trustees may establish income guidelines unique to the Tribe (as set forth in (B) below) or may use readily available income guidelines used to by state or federal programs to demonstrate individual or family need. When individual or family need must be shown, the Program may also take into account individual circumstances or extraordinary need to overcome presumptions based on income alone. A Beneficiary must certify his or her financial needs, and that the Assistance does not exceed the amount of the Beneficiary's financial need. The Board of Trustees, or its designee, shall adopt procedures and forms for certifying a Beneficiary's eligibility for Assistance under applicable income and need guidelines.
- B. Tribal Income and Need Guidelines. The Board of Trustees may adopt policies and review them for changes as necessary from time to time in establishing recommended minimum standards of living and income guidelines for purposes of determining a Beneficiary's qualification for needs based Benefits under the General Test. In making the recommendations called for herein, the Board of Trustees may look for guidance to federal guidelines such as the federal poverty levels, the federal earned income credit levels, the national or regional median family income statistics, and the guidelines used by state and federal programs. However, the Board of Trustees shall retain ultimate authority in establishing minimum standards of living for the CTUIR. In doing so, the Board of Trustees may take into account such issues as the number of dependents in a household, the level of household income, and household expenditures, the average and median Tribal incomes, and financial matters unique to the CTUIR.
- C. Community Needs. Certain Programs may be based on community needs, which are important to the self-determination, culture and traditions of the Tribe that Assistance may be deemed necessary regardless of individual income or wealth. For example, states provide public education to all citizens regardless of individual income or wealth. Some Programs may address both individual and community-based needs. The Board of Trustees reserves the right to require any applicant applying for consideration based on non-financial or community-based needs to demonstrate how the Program Benefits will benefit the tribal community as a whole, including preservation of culture, tradition and self-determination. Approval based on non-financial need criteria is made on a facts and circumstances basis and will be guided by traditional values and culture. A Program will be deemed to be based on community or non-financial needs if so designated by the Board of Trustees. The Tribe will also deem any program to be based on community need that is designed to meet purposes served by federal or state programs that are treated as community-need programs.

SECTION 2.04. PROMOTION OF GENERAL WELFARE

- A. All Assistance disbursed pursuant to this Code, regardless of whether it is intended to satisfy Internal Revenue Code Section 139E, a Safe Harbor, or the General Test, shall be designed to promote the general welfare, self-determination, culture and tradition of the Tribe. The Board of Trustees shall establish objectives for the furtherance of the general welfare, self-determination, culture and tradition of the Tribe and assess progress on said objectives in

connection with its annual budgeting review or at other times called for by the Board of Trustees.

- B. Programs shall be renewed, established, modified, or terminated based upon the needs of the Tribe as compared to the objectives set by the Board of Trustees from time to time, and limited to purposes consistent with treatment under the General Welfare Exclusion. The purposes for which Assistance and Benefits are provided under this Code may include, for example and not by way of limitation, the following:
1. Medical care, food, shelter, health, education, subsistence, housing, elder and disabled care;
 2. To meet cultural, traditional and religious needs of the Tribe and its membership; and
 3. To promote self-sufficiency, self-determination, Tribal image and the maintenance of culture and tradition, entrepreneurship, and the employment of Tribal Members.

Assistance intended to qualify under the General Welfare Doctrine must benefit the Tribe as a whole, a Tribal Member, and/or the family of a Tribal Member.

CHAPTER 3. PROGRAM ADMINISTRATION

SECTION 3.01. PROGRAMS

The Board of Trustees shall determine which programs each fiscal year shall qualify as Programs under this Code, subject to budget authorization. Programs approved by the Board of Trustees shall be reviewed by the Board of Trustees for consistency with this Code and the General Welfare Exclusion.

SECTION 3.02. ELIGIBILITY AND APPLICATION PROCEDURES

Each Program shall set forth the specific eligibility rules and limitations applied to that Program, and shall be administered pursuant to application forms and procedures approved by the Board of Trustees or its designee. Program guidelines may limit Benefits to an identified group of Members or Qualified nonmembers, as applicable. All Programs are limited by budget availability. In the absence of specific Program guidelines to the contrary, all Programs shall be deemed to incorporate eligibility criteria necessary for compliance with Internal Revenue Code Section 139E.

SECTION 3.03. LIMITED USE OF ASSISTANCE; SUBSTANTIATION

- A. All Assistance disbursed pursuant to this Code must be used for the purpose stated in the Program description, and the application for the applicable Assistance. The Tribe or its designee shall keep books or records deemed appropriate to demonstrate compliance with the Code. Recipients of Benefits hereunder are responsible for maintaining books or records as may be required for substantiation to the IRS for individual income tax purposes. In the event that Assistance payments are used or pledged for a purpose inconsistent with the purpose set forth in the applicable Program or the application, the Board of Trustees, or its designee, shall require the repayment of the welfare assistance payment. The Board of Trustees is authorized to offset any other payments owed to a Tribal Member, including per capita distributions, if such an offset is necessary, in the discretion of the Board of Trustees, to secure repayment of a welfare assistance payment in accordance with this Section.
- B. If a Beneficiary receives any Assistance that is not used for a proper purpose, or is in excess of the amount needed for an approved purpose, such Benefits shall be treated as a deemed loan, and the Board of Trustees, or its designee, shall have a legally enforceable right to demand repayment. Tribal remedies shall include all debt enforcement remedies available under the laws of the CTUIR.

SECTION 3.04. TRIBAL FUNDS

- A. All Programs are subject to budget authorization from the Board of Trustees. Funds that may be considered shall include those from gaming and non-gaming sources.
- B. Notwithstanding anything to the contrary, the Assistance payments authorized hereunder shall be “unfunded” for tax purposes and no Beneficiary shall have an interest in or right to any funds budgeted for or set aside for Assistance payments until paid. Assistance payments shall remain assets of the Tribe until distributed, and the Programs shall be administered at all times to avoid the doctrines of constructive receipt and/or economic benefit.
- C. No payments shall be made in connection with a Tribal program to or on behalf of individual Tribal Members or Qualified nonmembers, unless a specific program authorizing such payment has been approved by the Board of Trustees. The Program must include objective standards for determining eligibility for the payments and the amount of the payment. Subject to the availability of funds, the program must be available equally to all Tribal Members or Qualified nonmembers who meet the eligibility requirements, which requirements shall not discriminate among Tribal Members or Qualified nonmembers on the basis of race, religion, gender, sexual orientation, marital status, income, geographic location or physical or mental disability.

SECTION 3.05. FORFEITURE AND APPEALS

- A. Notwithstanding anything herein to the contrary, the Tribe may forfeit Assistance to any Beneficiary who is found by the Board of Trustees or its designee to have misapplied program funds or to have made any misrepresentations during the application process. The Board of Trustees or its designee may also forfeit Assistance should said Assistance be treated as a resource to the detriment of the Tribe or a Beneficiary; provided that no forfeiture may take effect until the individual is provided a hearing and due process as set forth in Section 3.05(B) herein.
- B. Before any individual’s Assistance is subject to forfeiture, said individual shall be provided an opportunity to appeal the basis for the forfeiture of Assistance. The Board of Trustees shall establish an appeal process under which a Beneficiary may seek administrative and judicial review of the forfeiture of Assistance, which appeal process shall include:
 - 1. A written statement of the grounds for forfeiture at least five days before the date of a hearing on the forfeiture;
 - 2. An opportunity for the beneficiary to provide evidence challenging the basis for the forfeiture; and
 - 3. An opportunity to appeal any administrative decision upholding the forfeiture to the Umatilla Tribal Court.

SECTION 3.06. ANTI-ALIENATION

Assistance payments under this Code are not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment or garnishment by creditors of the Tribal Member or Qualified nonmember, or their beneficiaries.

SECTION 3.07. PROGRAMS NOT LIMITED TO MEANS TESTING

Programs that qualify under Internal Revenue Code Section 139E or the IRS Safe Harbor shall not require a showing of individual need or means testing in order to achieve non-taxable treatment under the General Welfare Exclusion. The Tribe also reserves the right to provide community-based Programs and Programs based on non-financial need under the General Test that are not individually means tested. The Tribe recognizes that means testing can distort certain tribal cultural and community values. The Tribe has participated in consultation with the United States Treasury

Department and IRS and will evaluate Programs periodically as guidance is further developed through consultation with the Tribe.

SECTION 3.08. PRIVACY/INFORMATION SHARING

The Tribe will maintain records regarding sensitive CTUIR, Tribal Member and Qualified nonmember matters, including tribal customs, religion and traditions, as confidential and protected from third party disclosures to the fullest extent permitted by law. If information is requested by IRS or other government agencies or third parties during a compliance review or examination, disclosures shall be limited to the extent necessary and required by law pending an effort to address such requests through consultation and other rights under Executive Order 13175 on a government-to-government basis. Confidential CTUIR information shall not be shared in a manner that would open up additional disclosure, for example, under information sharing agreements the recipient may be subject to or under the Freedom of Information Act.

SECTION 3.09. GOVERNMENT-TO-GOVERNMENT RELATIONSHIP; EXECUTIVE ORDER 13175

Coordination with IRS and the United States Treasury Department on General Welfare matters shall be grounded on a government-to-government relationship that recognizes the unique relationship between the federal government and the Tribal government. The federal government, as a result of its treaty obligations and trust responsibility, has committed to providing education, housing, clean water, and many other basic needs for Indian people. Through a conscientious shift in policy in recent decades, the federal government has encouraged the Tribe itself to provide for such needs in partnership with the federal government and, increasingly in recent years, instead of the federal government. Essential to the government-to-government relationship is mutual respect and deference to Tribal governance decisions. Future consultations on General Welfare matters should reflect these concerns and the fact that the Tribal government, through its own policy setting process, is best situated to determine the needs of the Tribe and its Members and the appropriate policy solutions. All references to Executive Order 13175 shall include any future amendments thereto.

SECTION 3.10. OTHER TAX EXEMPTIONS

Notwithstanding anything herein to the contrary, the Tribe reserves the right to waive income limits or needs basis criteria, to the extent otherwise applicable, for expenditures that otherwise qualify for tax exemptions including tax exemptions under Titles 25 or 26 of the United States Code so long as the conditions for exemption are met. Without limitation, this includes Member medical benefits exempt under Section 9021 of the Patient Protection and Affordable Care Act of 2010 (Internal Revenue Code Section 139D) and per capita expenses exempt under 25 U.S.C. Sections 1407 and 1408.

SECTION 3.11. DELEGATIONS FOR ADMINISTRATION

- A. The Board of Trustees, acting through the Office of the Executive Director, (collectively, the “administrator”), shall be charged with the responsibility and authority to administer the welfare assistance payment program called for by this Code. The office of the Executive Director may also delegate administrative functions under its direction and oversight. All powers and duties conferred on the administrator shall be exercised or performed in the exercise of the administrator’s discretion regardless of whether the provision conferring such power or imposing such duty specifically refers to the administrator’s discretion.
- B. All decisions of the administrator upon all matters within the scope of its authority shall be binding and conclusive upon all persons.
- C. All actions taken by individuals in administering Benefits under this Code shall be presumed to be taken in their official capacity.

SECTION 3.12. NO WAIVER OF TRIBAL SOVEREIGNTY

All rights and liabilities associated with the enactment of this Code, and the Assistance payments made hereunder, shall be construed and enforced according to the laws of the CTUIR. The Board of Trustees is vested with the authority and discretion to construe the terms of this Code. Nothing in this Code or the related policies or procedures, if any, shall be construed as a waiver of sovereign immunity or to make applicable any laws or regulations which the Tribe is entitled to exemption from in accordance with its sovereign status.

CHAPTER 4. ELDERS ASSISTANCE PROGRAMS

SECTION 4.01. PURPOSE

The purpose of the Elders' Assistance Programs authorized in this chapter is to provide support for the tribal elders to ensure adequate home heating, cooling, utilities and maintenance, and other household related needs. The program also is intended to provide assistance to elders who can benefit from help with meal preparation or home-delivered meals, household chores or day care outside of the home, local or medical transportation, educational, social or cultural travel, and improvements to the home to adapt to special needs.

SECTION 4.02. FINDINGS AND INTENT

The Elders' Assistance Program is based upon the following findings by and intent of the Board of Trustees:

- A. Ensuring the well-being of tribal elders is an important traditional value of the CTUIR and its Members. The Board of Trustees and Tribal Members recognize that the elders had not had significant opportunities for education, employment, pension plans and personal asset accumulation during their earlier years. Many elders suffer from health conditions, such as diabetes.
- B. Recognizing the importance of supporting elders, the Board of Trustees is committed to ensuring the availability of resources in future years to assure annual funding is available for the Elders' Assistance Program.
- C. The Board of Trustees has established and funds the Nixyaawii Elders Program to ensure that Tribal elders can help determine the needs of Tribal elders and how Elders' Assistance Program benefits may be provided.
- D. The Board of Trustees intends that all Elders' Assistance Program benefits are authorized pursuant to this Code, and shall be administered in accordance and compliance therewith. The Elders' Assistance Program benefits are intended to be non-taxable and intended to meet the IRS "safe harbor" rules for tax free treatment of qualifying benefits under the Tribal General Welfare Exclusion Act of 2014, now codified within the Internal Revenue Code Section 139E, and IRS Revenue Procedure 2014-35. Accordingly, Elders' Assistance Program benefits provided in accordance with this chapter are intended to qualify for favorable tax treatment to the fullest extent permitted under the general welfare doctrine.

SECTION 4.03. DELEGATED AUTHORITY

The Board of Trustees delegates the authority to implement the Elders' Assistance Programs and appropriate procedures and activities to implement this chapter as follows:

- A. To the Office of Executive Director to administer the monthly Elders' General Assistance payments and to assist the Nixyaawii Elders Program in the administration of the Elders' Energy Assistance Benefits paid from the Nixyaawii Elders Fund; and
- B. To the Nixyaawii Elders Program the authority to determine the amount of and fund the Elders' Energy Assistance payment from the annual appropriations into the Nixyaawii Elders Fund.

SECTION 4.04. ELDERS' GENERAL ASSISTANCE PROGRAM

A. Monthly Elders' General Assistance

There is hereby authorized an Elders' General Assistance Benefit for each Tribal Member who has achieved the age of 65. The Benefit shall be paid beginning with the month following the month in which each Tribal Member achieves the age of 65 years up to and including the month in which a member is deceased.

B. Amount of Benefit. The amount of the monthly Elders' General Assistance Benefit shall be as determined and periodically adjusted by official action of the Board of Trustees. The benefit shall meet the requirements of section 2.01(A) of this Code.

C. Purpose of the Assistance.

The purpose of this Elders' General Assistance Benefit is to help elders with household and other needs to improve their standard of living, and to mitigate the impact on this particular segment of Tribal Members of having to endure decades of low tribal economic opportunity during critical working years.

D. Safe Harbor Benefits.

The Elders' General Assistance Program Benefits may be used to assist with those recognized "safe-harbor" purposes as discussed within Section 2.02 of this Code.

E. Tribal Specific Needs.

1. Costs consistent with any safe harbor purpose, but not specifically listed, within Section 2.02, including;
 - a. Property taxes related to principal residence;
 - b. Homeowners insurance, including earthquake and flood coverage;
 - c. Other medical expenses not otherwise paid by the Yellowhawk Tribal Health Center, the Indian Health Service or other medical care insurance.
2. Professional services needed to preserve and protect the Tribal Member's household and assets, including but not limited to taxation issues, financial and estate planning, living wills and trusts.

SECTION 4.05. ELDERS' ENERGY ASSISTANCE PROGRAM

A. Elders' Energy Assistance Program.

There is hereby authorized an Elders' Energy Assistance Benefit for each Tribal Member who has achieved the age of 55. The Benefit shall be paid on a date determined by the Nixyaawii Elders Program. The Benefit shall be available to each Tribal Member who achieves the age of 55 years prior to the date the Tribal Elders' Energy Assistance Benefit is paid up to and including the month in which a member is deceased.

B. Amount of Benefit.

The amount of the monthly Elders' Energy Assistance Benefit shall be as established by the Nixyaawii Elders Program, which Benefit amount shall be the same for each qualified Tribal Member.

C. Purpose of the Assistance.

The purpose of this Elders' Energy Assistance Benefit is to help elders with household utility bills during the cold winter and hot summer months.

D. Safe Harbor Benefits.

The Elders' Assistance Program Benefits may be used to assist with those recognized "safe-harbor" purposes as discussed within Section 2.02 of this Code.

SECTION 4.06. BENEFITS NOT AN ENTITLEMENT

A. No Entitlements Intended

The Elders' General Assistance and Elder's Energy Assistance Programs authorized pursuant to this chapter are not entitlement programs. The Tribe has made provision to fund the Programs by establishing the funds for the Programs within the Tribal budget, but the Programs may be changed or eliminated as determined to be necessary or appropriate and no Tribal Member or his or her estate has any vested interest in potential or unused benefits available under the programs. The receipt of Program Benefits does not create a vested right in the Tribal Member elder, the members of the Tribal Member elder's household, their estate or their heirs at law.

B. These Programs shall be unfunded for tax purposes. These Programs will be administered in a manner to avoid premature taxation through the IRS doctrines of constructive receipt and economic benefit.

C. Amounts authorized pursuant to this chapter are based on estimates of the total costs typically incurred by a Tribal Member elder to provide for safe harbor and Tribal specific needs, and are set at amounts that are expected to be lower than the Beneficiary's total actual household or special needs. In the unusual event that Program Benefits exceed the elder's actual need for a calendar year, the elder must return the excess or notify the Tribe, by December 31, of any excess that was not returned so that the excess can be reported as taxable income.

D. Amounts provided under this chapter are limited to the amounts appropriated for the Programs and to such limitations as shall be set forth within the Tribal budget.

E. Taxes. These Programs are approved under the provisions of and intended to qualify for treatment under this Code. These Programs are also intended to qualify for safe harbor tax treatment under Section 139E of the Internal Revenue Code. The Tribe intends that the services and or benefits derived from the programs shall qualify for favorable tax treatment to the fullest extent permitted under the general welfare doctrine and applicable law.

F. Although the Tribe intends the most favorable income tax treatment available under federal and state tax laws, the Tribe will not provide or pay for professional assistance to complete tax returns or if participants are audited or reviewed by federal or state taxing authorities. The Tribe will not be responsible for or pay any tax penalties or interest incurred by participants in connection with their participation in the program. It is the responsibility of each recipient to consult his or her own tax advisor regarding the taxability or reporting obligations of program benefits.

G. The Tribe shall not be liable for continuation of these Programs beyond the budgetary resources appropriated by the Board of Trustees or, as to the Elders' Energy Assistance Benefits, the allocation of the Nixyaawii Elders Fund by the Nixyaawii Elders Program.

SECTION 4.07. BENEFICIARY RESPONSIBILITIES

Beneficiaries of the Elders' General Assistance and the Elders' Energy Assistance Programs are responsible to:

- A. Provide such information to the Tribe as is requested to evaluate the needs of the Programs, including responding to surveys of safe harbor and other Tribal specific costs incurred by the Beneficiary.
- B. Maintain appropriate records or receipts to substantiate that Benefit amounts provided by the Program were expended for eligible Program purposes.
- C. In the unusual event that Program Benefits exceed the Beneficiary's actual need for a calendar year, the Beneficiary must return the excess or notify the Tribe, by December 31, of any excess that was not returned so that the excess can be reported as taxable income.

SECTION 4.08. SUBSTANTIATION AND RECORDS

The Office of the Executive Director shall provide for:

- A. A survey of actual Beneficiary costs associated with safe harbor and Tribal specific needs as described in Sections 4.04 and 4.05:
- B. Notification of Tribal elders of the purposes of the Programs authorized by this chapter, the authorized Benefits, the purposes for which the Benefits may be utilized and the Beneficiary responsibilities under the Programs.
- C. Tax reporting to the extent of any excess Benefits reported by any Beneficiary in the Programs as discussed in Section 4.07(C).
- D. Maintenance of records, including surveys and evaluations for each year of the Programs for a period of not less than six years following the end of the Calendar Year for which Benefits are paid.

CHAPTER 5. BOARD OF TRUSTEES COMMUNITY DONATION PROGRAM

SECTION 5.01. PURPOSE

The purpose of the Board of Trustees Community Donation Program is to provide support for Tribal Members and Tribal Member groups to participate in educational, cultural, recreational and community improvement projects and activities.

SECTION 5.02. FINDINGS AND INTENT

The Board of Trustees Community Donation Program is based upon the following findings:

- A. Tribal Members and community groups are in need of financial assistance to participate in educational, cultural, recreational and community improvement projects, events and activities that will benefit individual Tribal Members and the Tribal community.
- B. The Board of Trustees annually appropriates Tribal funds into the Board of Trustees Donation Fund to provide financial assistance to Tribal Members and community groups to participate in educational, cultural, recreational and community improvement projects and activities.

SECTION 5.03. DELEGATED AUTHORITY

The Board of Trustees delegates the authority to implement the Board of Trustees Community Donation Program and appropriate rules and procedures to implement this chapter to the Tribal Finance Department.

SECTION 5.04. BOARD OF TRUSTEES COMMUNITY DONATION PROGRAM

- A. Eligible Applicants.

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As Amended through Resolution No. 20-024 (March 16, 2020)*

Any Tribal Member may file an application for Program Benefits individually or on behalf of a Tribal entity or group.

B. Filing Applications.

Applications shall be submitted on Request for BOT Donation Forms available at the Finance Department. Applications may be filed at any time, but must be filed at least three (3) working days before funds are needed.

C. Application Requirements.

Applications must request funding for only the following purposes:

1. Education, but the application may not include funding for college books, tuition or educational loan repayment;
2. Cultural, including learning about or participating in a Tribal traditional or cultural event or project;
3. Recreation, including activities that promote physical fitness, participation in team or individual athletic events or expenses associated with supporting teams consisting of Tribal Members; and
4. Community improvement, including programs such as Neighborhood Watch, trash pick-up, graffiti removal.

D. Benefit Amounts and Restrictions.

1. In any calendar year, a Tribal Member, team or organization is only entitled to one (1) benefit payment.
2. Benefits shall be as determined and periodically adjusted by official action of the Board of Trustees. The benefit shall meet the requirements of section 2.01(A) of this Code.
3. Benefit Restrictions. No Benefit shall be awarded for the following:
 - a. For a recreational event involving adult Tribal Members or for adult sports teams;
 - b. The Benefit shall not fund more than 50% of the total cost of the project, activity or event;
 - c. Travel expense for mileage, meals and lodging cannot exceed the federal government per diem rates;
 - d. For community events sponsored by a Tribal government department or program;
 - e. For individual family events such as memorials, give-aways, namings, family reunions, etc.
4. Safe Harbor Benefits. The Board of Trustees Community Donation Program Benefits may be used to assist with those recognized “safe-harbor” purposes as discussed within Section 2.02 of this Code.

SECTION 5.05. BENEFICIARY RESPONSIBILITIES

Beneficiaries of the Board of Trustees Community Donation Program are responsible to:

- A. Accurately provide requested information in applications for Program benefits.
- B. Provide information to the Tribe as is requested to evaluate the needs of the Program, including responding to surveys of safe harbor and other Tribal specific costs incurred by the Beneficiary.
- C. Maintain appropriate records or receipts to substantiate that Benefit amounts provided by the Program were expended for eligible Program purposes.

CHAPTER 6. TRADITIONAL, CULTURAL AND RELIGIOUS BENEFITS

SECTION 6.01. PURPOSE

The purpose of the traditional, cultural and religious benefits provided under this Chapter is to promote participation in, education about and practice of Tribal traditions, culture and religion. After decades of federal practices and policies that discouraged the exercise of Tribal culture, the speaking of Tribal languages and the practice of Tribal traditional religions, the CTUIR has been and remains committed to preserving and protecting its traditional, cultural and religious practices, ceremonies and beliefs and hereby establishes benefits in furtherance of that objective.

SECTION 6.02. FINDINGS AND INTENT

The traditional, cultural and religious benefits provided in this Chapter are based upon the followings findings and intent of the Board of Trustees:

- A. The CTUIR is committed to the preservation and practice of its traditional, cultural and religious practices and ceremonies. As a critical element of its cultural commitment, the CTUIR is also committed to the preservation of the Tribal languages and history.
- B. The CTUIR routinely conducts, as they have since time immemorial, traditional, cultural and religious ceremonies that involve the participation of Tribal traditional, cultural and religious leaders and practitioners.
- C. The CTUIR has traditionally provided gifts and other forms of honoraria to Tribal traditional, cultural and religious leaders and practitioners for their knowledge about, and leadership of, Tribal traditional, cultural and religious practices and ceremonies.
- D. Tribal traditional, cultural and religious ceremonies and practices, and the benefits provided under this Chapter, promote the general welfare of the CTUIR and its Members.
- E. The benefits provided under this Chapter are consistent with Internal Revenue Code Section 139E as provided in Section 2.01 of this Code and with the IRS safe harbor provisions as provided in Section 2.02 of this Code.

SECTION 6.03. BENEFIT AUTHORIZATION

Traditional, cultural and religious benefits authorized under this Chapter may be provided by the CTUIR acting through its departments, programs and governmental subdivisions in conformance with CTUIR policies. In addition, the Board of Trustees delegates the authority to provide and implement the traditional, cultural and religious benefits provided in this Chapter that meet the requirements set forth in this Code to entities and enterprises chartered, owned or controlled by the CTUIR.

SECTION 6.04. TRADITIONAL, CULTURAL AND RELIGIOUS BENEFITS

- A. The CTUIR may provide the following benefits to Tribal Members and Qualified nonmembers:
1. Awards, including but not limited to, items of cultural significance, gifts and cash honoraria, may be provided to Tribal traditional, cultural and religious leaders or participants for providing traditional, cultural or religious services including, but not limited to, officiating, singing, drumming, making burial or funerary items for burials and repatriations and participating at Tribal ceremonies or events. Awards provided to individuals are not considered and do not represent compensation for services.
 2. Awards, including but not limited to, items of cultural significance, gifts and cash honoraria, may be provided to traditional, cultural and religious leaders, practitioners and teachers, for their contribution to the practice and preservation of Tribal traditions, culture, religion, language and history. Awards provided to individuals are not considered and do not represent compensation for services.
 3. The provision of traditional foods and medicines including, but not limited to, salmon, deer and elk.
 4. Pay expenses, including but not limited to, admission fees, transportation, food and lodging, to attend or participate in the CTUIR's cultural, social, religious or community activities.
 5. Pay expenses, including but not limited to, admission fees, transportation, food and lodging, to visit sites that are culturally or historically significant for the CTUIR, including but not limited to other Indian reservations.
 6. Pay the costs of receiving instruction about the CTUIR's culture, history and traditions, including but not limited to, traditional language, music and dances.
 7. Pay transportation costs and admission fees to attend educational, social, or cultural programs offered or supported by the CTUIR or another tribe.
- B. Requirements for provision of traditional, cultural and religious benefits. Any Tribal governmental or commercial entity that provides traditional, cultural or religious benefits shall:
1. Provide benefits pursuant to the criteria established in section 6.04(A) of this chapter or pursuant to written guidelines established by the entity for determining eligibility to receive traditional, cultural or religious benefits.
 2. The guidelines governing the provisions of benefits under this chapter are consistent with the provisions of sections 2.01 and 2.02 of this Code.
 3. Provide to the Tribal Finance Department prior to the issuance or award of a traditional, cultural or religious benefit under this chapter the following:
 - a. a description of the benefit; and
 - b. the guidelines by which the benefit will be awarded.

The Finance Department shall inform the Tribal governmental or commercial entity additional information requirements that are required to ensure the exemption from federal income tax under the General Welfare Exclusion Doctrine and this Code.

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4. Provide to the Tribal Finance Department the following information upon the provision of a traditional, cultural or religious benefit under this chapter:
 - a. The name of the person(s) provided the benefit;
 - b. The type and value of the benefit;
 - c. Any other information required to demonstrate compliance with this Code requested by the Finance Department.

SECTION 6.05. BENEFITS NOT COVERED BY THIS CHAPTER

Benefits in the form of prizes, awards, gifts or payments shall not be covered under this Chapter under the following circumstances:

- A. When they are provided as a door prize or a raffle at a Tribal event.
- B. When the benefit is provided to a corporation, partnership or other business entity.
- C. When the benefit is a gift card or other matter that does not meet the definition of an item of cultural significance provided solely for attendance at a Cultural Activity.
- D. When the Beneficiary is an individual who is not a Tribal Member or Qualified nonmember as defined in this Code.
- E. When the prize, award, gift or payment is made in a manner that violates this Code.

SECTION 6.06. EFFECTIVE DATE

The provisions of this Chapter shall be effective on January 1, 2015.

CHAPTER 7. 477 PROGRAM PLAN; BUILDING OUR LIFE SKILLS, TRAINING AND EMPLOYMENT-READINESS PROGRAM

SECTION 7.01. PURPOSE

- A. 477 Program Plan. The 477 Program Plan is intended to assist eligible participants with their employment and training needs in order to improve the effectiveness of those services, reduce joblessness in our Tribal community to achieve the goal of Tribal self-determination.
- B. Building Our Life Skills, Training and Employment-Readiness (BOLSTER) Program. The purpose of the BOLSTER Program (formerly known as the Day Labor or Day Training Program) is to enhance employment and life skills through a case managed process where participants are provided training and guidance while serving as part of a team. Successful participants will receive a training stipend during their participation in the Program. The BOLSTER Program is designed to be a stepping stone to other training and employment opportunities offered by the CTUIR.

SECTION 7.02. FINDINGS AND INTENT

The 477 Program Plan and BOLSTER Program benefits provided in this Chapter are based upon the followings findings and intent of the Board of Trustees:

- A. The CTUIR is committed to enabling its members to train and qualify for employment and to identify and address obstacles to their employment.

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- B. The CTUIR recognizes that its members may need assistance in acquiring the training, life skills, clothing and equipment to qualify for employment positions that are available within the Reservation community.
- C. Despite the growth in job opportunities on the Umatilla Indian Reservation over the past 25 years, unemployment among Tribal members has persisted at an unacceptable rate.
- D. The 477 Program Plan, including the BOLSTER Program is designed to address the training and employment needs of CTUIR members who are either unemployed or underemployed, and eligible veterans.
- E. By Revenue Ruling 63-136, the Internal Revenue Service has determined that benefit payments made to persons participating in Federal job training or retraining programs are not includable in the gross income of program participants.
- F. The benefits provided under this Chapter are consistent with Internal Revenue Code Section 139E as provided in Section 2.01 of this Code and with the IRS safe harbor provisions as provided in Section 2.02 of this Code.

SECTION 7.03. BENEFIT AUTHORIZATION

The 477 Program Plan and BOLSTER Program benefits authorized under this Chapter may be provided by the CTUIR acting through its Department of Children and Family Services and other Tribal departments, programs and governmental subdivisions in conformance with CTUIR policies.

SECTION 7.04. ELIGIBILITY FOR BOLSTER PROGRAM BENEFITS

- A. All participants in the BOLSTER Program must meet the following eligibility criteria:
 - 1. Be at least 18 years of age;
 - 2. Be an enrolled member of the CTUIR;
 - 3. Be unemployed;
 - 4. Be willing to participate in and complete an orientation for the BOLSTER Program;
 - 5. Be willing and able to do the assigned work and meet required physical demands;
 - 6. Be willing to coordinate with their case manager in the development of their employment training needs, assignments and program;
 - 7. Be willing to consent to a criminal background check, the results of which will be used to determine the participant's appropriate employment training, placement on a training team and location for receipt of employment training; and
 - 8. Be willing to comply with the drug-free rules while participating in the BOLSTER Program.
- B. The BOLSTER Program is an employment training program for eligible participants. Participants will be considered trainees, not employees, and therefore will not receive employment benefits such as health insurance, life insurance, dental/vision benefits, holiday pay, administrative pay, or other fringe benefits offered to employees of the CTUIR.

SECTION 7.05. BOLSTER PROGRAM BENEFITS

- A. The CTUIR may provide the following benefits to eligible CTUIR Members participating in the BOLSTER Program:

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1. Employment and life skills training. Participants will receive training and skills development sessions throughout the BOLSTER Program. These sessions will be provided as a group or in a one-on-one session between a case worker/field supervisor and the participant. All sessions will be documented in the participant's file. Sessions may include trainings such as general labor, first aid/CPR, resume and cover letter writing, GED process, customer service, computer skills, food handling, cash handling and interviewing skills. Life skills training may include promptness, reliability, responsibility, communication and work ethic.
 2. Employment support services. BOLSTER Program participants may also be eligible for additional services offered by Tribal departments and programs to support their employment training and prospects. The participant's case worker will evaluate the participant's needs and the services that may be available to address those needs. Participants may be eligible for the following services:
 - a. Work clothes/supplies;
 - b. Childcare payment assistance;
 - c. Transportation;
 - d. Referrals to Yellowhawk for alcohol and drug, mental health, and other medical services;
 - e. Housing;
 - f. Veterans' services;
 - g. Office of Child Support Enforcement services; and
 - h. Education, vocational rehabilitation and related services.
 3. Stipend. BOLSTER Program trainees successfully completing training and project requirements are eligible for a daily stipend in an amount to be determined by the Board of Trustees, which shall be paid periodically and shall be based on the number of days completed by the participant. To receive the daily stipend, the participant must attend the full day's training or project. Program organizers may also arrange for half day trainings, case work or projects, in which case participants shall be eligible for a daily stipend to be determined by the Board of Trustees. Stipends are provided to the participant for their successful participation in the BOLSTER Program and are not compensation for services.
- B. Requirements for provision of BOLSTER Program benefits. Any Tribal governmental or commercial entity that provides benefits under this chapter shall:
1. Provide benefits to eligible participants who meet the eligibility criteria established in section 7.04(A) of this chapter and any applicable written guidelines established by the entity for determining eligibility to receive BOLSTER Program benefits.
 2. The guidelines governing the provisions of benefits under this chapter are consistent with the provisions of sections 2.01 and 2.02 of this Code.
 3. Provide to the Tribal Finance Department the following information upon the provision of BOLSTER Program benefits under this chapter:
 - a. The name of the person(s) provided the benefit;
 - b. The type and value of the benefit;

- c. Any other information required to demonstrate compliance with this Code requested by the Finance Department.

SECTION 7.06. 477 PROGRAM PLAN BENEFITS AND ELIGIBILITY

- A. The CTUIR may provide the following benefits to eligible CTUIR Members participating in the 477 Program Plan:
 - 1. Tribal On-The-Job Training
 - 2. Youth Program Services
 - 3. Career Services
 - 4. Support Services (to overcome employment handicaps)
 - 5. Business Development
- B. Eligibility Criteria. The eligibility criteria for each of the 477 Programs set forth in subsection A, above, shall be as set forth in the 477 Program Plan.
- C. Benefits. The benefits for each of the 477 Programs set forth in subsection A, above, shall be as set forth in the 477 Program Plan, which benefits may be adjusted by official action of the Board of Trustees.
- D. All benefits provided under the 477 Program meet the definition of Assistance as provided in Section 1.11(A) of this Code except for payments that constitute compensation for services.

SECTION 7.07. EFFECTIVE DATE

The provisions of this Chapter shall be effective on January 1, 2017.

CHAPTER 8. ASSISTANCE UNDER TRIBAL EMPLOYMENT RIGHTS OFFICE CODE

SECTION 8.01. PURPOSE

The Tribal Employment Rights Office (TERO) and the TERO Code were established for the following purposes:

- A. To prevent employment related discrimination against American Indians;
- B. To ensure preference in employment, contracting and sub-contracting, and training to American Indians;
- C. To maximize utilization of Indian workers in all employment opportunities on or near the Umatilla Indian Reservation; and
- D. To ensure the Indian workforce on the Umatilla Indian Reservation are trained and equipped to enter the workforce and maintain employment of their choosing.

SECTION 8.02. FINDINGS

The need for the TERO Program and the benefits described below is based on the following findings:

- A. Jobs in the private employment sector on and near the Umatilla Indian Reservation are an important resource for Indians residing on and near the Reservation.

***STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 20-024 (March 16, 2020)***

- B. In order to attract private employers to locate on the Umatilla Indian Reservation, Indians residing on or near the Reservation need to have the training and skills those employers require.
- C. The TERO Program is consistent with and supplemental to existing federal and tribal law prohibiting employment discrimination against Indians and providing employment and contract preference to individual Indians and Indian-owned enterprises.
- D. Indian employment on the Umatilla Indian Reservation continues to be a concern of sufficient magnitude to warrant improved training and employment opportunities for Indians living on and near the Reservation.
- E. Many unemployed Indians on the Umatilla Indian Reservation may have social barriers to employment such as poor education, substance abuse, the lack of vocational training or the lack of tools and other equipment required by their preferred vocation that need to be addressed.
- F. By Revenue Ruling 63-136, the Internal Revenue Service has determined that benefit payments made to persons participating in Federal job training or retraining programs are not includable in the gross income of program participants.
- G. The benefits provided under this Chapter are consistent with Internal Revenue Code Section 139E as provided in Section 2.01 of this Code and with the IRS safe harbor provisions as provided in Section 2.02 of this Code.

SECTION 8.03. BENEFIT AUTHORIZATION

The TERO Program is established and authorized by the TERO Code approved by the Board of Trustees. Pursuant to Section 2.01 of the TERO Code, the TERO Program Manager has the authority to administer the TERO Program, including the services and benefits described below. The Board of Trustees also adopted the TERO Tax Guidelines on July 17, 2017 for the use of TERO tax revenue to provide the benefits to TERO clients.

SECTION 8.04. ELIGIBLE RECIPIENTS

The TERO Program benefits described in Section 8.05 shall be available to TERO clients. TERO clients include all persons enrolled in the CTUIR, persons enrolled in a federally recognized Indian tribe who lives on or near the Umatilla Indian Reservation and a person that is the spouse or dependent of an enrolled CTUIR member residing on or near the Umatilla Indian Reservation. The TERO Program may provide a preference to CTUIR enrolled members in the provision of the benefits described in Section 8.05, especially for benefits paid for by CTUIR funds.

SECTION 8.05. TERO PROGRAM BENEFITS

The TERO Program may provide the following benefits to TERO clients:

- A. Individual Assistance. TERO Program assistance to individual TERO clients may consist of the following benefits. The maximum assistance that may be provided to any person shall be as set forth in the TERO Tax Guidelines that are referenced in Section 6.03(E) of the TERO Code.
 - 1. Fuel. Individuals may be assisted with fuel costs for travel to job and training sites. Carpooling will be prioritized.
 - 2. Per Diem. Per Diem assistance is permissible for a maximum of the first ten days at a job or up to thirty days at a training site off-Reservation. The CTUIR utilizes the per diem rates established annually by the Government Services Administration (GSA).

3. **Lodging.** Lodging costs are permissible for a maximum of the first ten days at an off-Reservation job or up to twenty days at an off-Reservation training site. The CTUIR utilizes the lodging rates established annually by the GSA.
 4. **Clothing.** Appropriate, work-related clothing may be purchased for the individual for jobs and training. Costs of replacement clothing are the responsibility of the individual.
 5. **Tools and Equipment.** Individuals may receive assistance with tools and/or equipment that are essential to a job or training. TERO staff must verify all requests for tools and/or equipment with contractor or trainer prior to providing assistance. Costs of replacement tools and/or equipment are the responsibility of the individual.
 6. **Safety Gear.** Individuals may receive assistance for safety gear. TERO staff must verify all requests for safety gear with the contractor or trainer. Cost of replacing safety gear is the responsibility of the individual.
 7. **Union Dues.** Assistance with union dues is limited to one payment per calendar year. Individuals may receive financial assistance to reimburse the individual for the payment of union dues. The TERO office must receive an invoice from the union before the payment will be made.
 8. **Other.** Other job and training-related items or fees that are not listed above may be considered based on written request to the TERO Program Manager.
 9. **Training and Workshops.** TERO may provide or pay for employment or vocational training and workshops for TERO clients. TERO may provide stipends to TERO clients for their participation in a training or workshop. TERO clients successfully completing the training or workshop may be eligible for a daily stipend in an amount to be determined by the TERO Program Director. To receive the stipend, the TERO client must attend the full training or workshop. Stipends are provided to the TERO client for their successful participation in the TERO training or workshop and are not compensation for services.
- B. All benefits provided under the TERO Program meet the definition of Assistance as provided in Section 1.11(A) of this Code except for payments that constitute compensation for services.

SECTION 8.06. CRITERIA FOR ALLOCATING TERO PROGRAM BENEFITS

The TERO Program Manager shall allocate TERO Program benefits based upon the following criteria:

- A. CTUIR enrolled members shall receive preference for TERO Program benefits.
- B. The relevance of the benefit to the TERO client's career experience and goals.
- C. The prior TERO work experience, reliability and performance of the TERO client.
- D. In appropriate circumstances, a TERO client may be denied a benefit based upon the prior receipt of TERO Program benefits.

SECTION 8.07. EFFECTIVE DATE

The provisions of this Chapter shall be effective on January 1, 2018.

APPENDIX A

LEGISLATIVE HISTORY

GENERAL WELFARE CODE

LEGISLATIVE HISTORY

The Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation enacted the General Welfare Code pursuant to Resolution 14-067 (December 15, 2014). In Resolution 14-067, the Board of Trustees also directed the Office of the Executive Director and Office of Legal Counsel to develop additional chapters to the General Welfare Code addressing additional Tribal benefits including Elders assistance, burial assistance, housing down payment assistance, tribal scholarships, elders energy assistance, tribal community donations, and tribal cultural participation payments.

In Resolution 14-068 (December 22, 2014), the Board of Trustees amended the General Welfare Code to add chapters 4 and 5, bringing administration of the Elders' Services Code benefits, Elders' Energy Assistance Benefits, and the Board of Trustees Donation Fund benefits within the scope of the General Welfare Code. Resolution 14-068 also rescinded the Elders' Services Code.

In Resolution 15-012 (February 23, 2015), the Board of Trustees amended section 4.04(B) of the General Welfare Code to increase the amount of the monthly elders' general assistance payments.

In Resolution 15-017 (March 9, 2015), the Board of Trustees enacted a new Chapter 6 to the General Welfare Code setting forth the traditional, cultural, and religious benefits provided by the Confederated Tribes that are exempt from federal income tax.

In Resolution 17-080 (November 27, 2017), the Board of Trustees amended sections 4.04(B) and 5.04(D) of the General Welfare Code to allow flexibility in the benefit amounts provided under those chapters, as such amounts change over time by official action of the Board of Trustees. Resolution 17-080 also added a new Chapter 7 to the Code, to ensure that stipends and other benefits provided to BOLSTER program participants are covered by and receive the benefits of the General Welfare Code.

In Resolution 18-077 (October 22, 2018), the Board of Trustees enacted a new Chapter 8 to the General Welfare Code. Chapter 8 addresses benefits provided to clients of the Tribal Employment Rights Office (TERO) pursuant to the CTUIR TERO Code, to ensure that such benefits are covered by and receive the benefits of the General Welfare Code.

In Resolution 20-024 (March 16, 2020), the Board of Trustees amended section 8.05 of the General Welfare Code to increase the availability of per diem and lodging expense reimbursement for TERO Program participants at job sites and trainings.